

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD**

RECOTON CORPORATION,

Opposer,

v.

ADVENT NETWORKS, INC.

Applicant.

Opposition No. 91150749

Serial No. 76/033,895



01-13-2003

U.S. Patent & TMO/c/TM Mail Rpt Dt. #10

**DECLARATION OF ROCHELLE D. ALPERT IN SUPPORT OF
OPPOSITION TO OPPOSER'S MOTION
FOR SUMMARY JUDGMENT**

I, Rochelle D. Alpert, declare as follows:

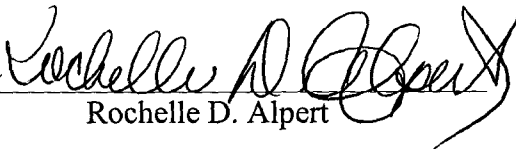
1. I am a partner in the law firm of Brobeck, Phleger & Harrison LLP and counsel of record for applicant Advent Networks, Inc. ("Applicant") in the above-captioned matter. I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would testify competently thereto.

2. Attached hereto as Exhibit A is a true and correct copy of relevant pages of the file wrapper for the mark ADVENT, Serial No. 76/363889, filed by Recoton Audio Corporation ("Recoton"). In particular, Recoton acknowledges in its attempt to distinguish its applied for mark from the mark ICS ADVENT that its products are limited to "home and mobile consumers" in paragraph 5 of its response there.

I declare that the foregoing statements are made of my own knowledge and are true and that all statements made on information and belief are believed by me to

be true. I have been warned that willful, false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any resulting registration.

Dated: January 13, 2003


Rochelle D. Alpert

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: RECOTON AUDIO CORPORATION
Mark: ADVENT
Serial No.: 76/363889
Filing Date: 1/26/02
Int. Class: 9
Office Action No.: 1

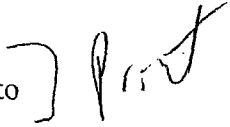
AMENDMENT TO APPLICATION IN RESPONSE TO OFFICE ACTION NO. 1

TO THE COMMISSIONER FOR TRADEMARKS:

Applicant respectfully requests that the following amendments be made to the Application in response to Office Action No. 1 for the above-referenced trademark filed with the United States Patent and Trademark Office ("USPTO"):

✓ 1. Applicant requests that the goods description be amended to read as presented on Exhibit "A" attached hereto and made a part hereof. The language on Exhibit "A" which is bolded is the modified language as suggested by the Trademark Examiner, and the following are the deleted items from the goods description:

"digital music transfer systems"
"home theater systems"
"marine audio equipment"
"rack systems"
"dubbing apparatus"
"volume and level control apparatus."

2. Applicant requests that the addition of a claim of ownership be made to the Application for U.S. Registration Nos. {2,558,737 and 1,008,947} 

3. Applicant understands that a Section 2(f) claim is unnecessary and wishes to withdraw the Section 2(f) claim for U.S. Registration No. 1,008,947.

In response to the Trademark Examiner's Office Action dated June 6, 2002, Applicant respectfully responds as follows:

1. Applicant's currently registered trademark for "ADVENT" under U.S. Trademark Registration No. 1008947 has been registered at the USPTO since 1975, and has been in use since as early as 1970. Applicant's current application is merely an update of goods from this prior trademark registration to update the goods according to advances in technology in Applicant's industry.

2. Applicant's "ADVENT" trademark has gained distinctiveness and recognition worldwide in respect of its goods of interest as can be seen by the attached list of Applicant's "ADVENT" trademarks worldwide (attached hereto and made a part hereof as Exhibit "B").

3. Trademark Application No. 76/033895 for the trademark "ADVENT NETWORKS" is currently being opposed by Recoton Audio Corporation under Opposition No. 91150749. Recoton Audio Corporation argues that it has prior use rights to Advent Networks, Inc., the owner of record for Application No. 76/033895. Advent Networks, Inc. and Recoton Audio Corporation are currently attempting to negotiate a co-existence agreement which shall limit Advent Networks' goods, and use of the mark to "ADVENT NETWORKS" together and not alone.

4. Trademark Application No. 75/906111 for the trademark "ADVENT" is also owned by Advent Networks, Inc., and will be a part of the negotiated co-existence agreement as referred to in Item 3 above.

5. Trademark Application No. 75/710717 for the trademark "ICS ADVENT" is for **industrial** computers and related equipment. Recoton Audio Corporation argues that it has prior use rights to Industrial Computer Source, the owner of record for Application No. 75/710717. Recoton Audio Corporation markets to and sells to the **home and mobile consumer**.

DECLARATION

Loan B. Kennedy, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any registration resulting there from, declares that she is General Counsel of Recoton Audio Corporation, and is authorized to execute this instrument on behalf of said corporation; she believes the applicant to be the owner of the trademark sought to be registered, and that all statements made of her knowledge are true and all statements made on information and belief are believed to be true.

RECOTON AUDIO CORPORATION

By: 

General Counsel

Date: August 12, 2002

EXHIBIT "A"

AMENDMENT TO GOODS DESCRIPTION
IN INTERNATIONAL CLASS 9

{home and mobile audio, video and electronic equipment and accessories, namely, adapters; ambience and surround sound processors, amplifiers; answering machines; antennas; band separators; bridgeable amplifiers; **power, coaxial, electric and fiber optic cables; electrical and cable connectors; cleaning tapes, compact discs, cassettes and DVD's for electronic equipment;** calculators; video, photographic, digital and motion picture cameras; camcorders; **carrying bags and cases for carrying compact discs, cassette tapes, computers, video tapes, video games, DVD's, cameras and camcorders;** AM/FM compact disc receivers; AM/FM audio cassette receivers; audio and video cassette decks; **audio and video cassette players; audio and video cassette recorders;** cell phones; compact disc changers; compact disc changer controllers; compact disc players; CD-R playbacks; CD-RW playbacks; CDC receivers; **radios incorporating clocks;** coaxial speakers; computers; crossovers; DVD players; electronic power supply units; equalizers; FM universal modulators; graphic equalizers; headphones; loudspeakers; loudspeaker supporting and tilting mechanisms and parts therefore; MP3 receivers; microphones; power inverters; powered subwoofers; pre-amplifiers; radio receivers; radio transmitters; **audio and video receivers;** signal processors; speaker cabinets; speaker selectors; power strips; satellite radios; satellite receivers; subwoofers; surge protectors; telephones; televisions; transformers; triaxial speakers; tuners; turntables; game switches; tweeters; VCR-TV antenna switches, terminators and signal reducers, signal amplifiers, signal splitters, stereo sound simulators, transformers and filters; **video stabilizers and television picture enhancers;** switching units and junction boxes; walkie-talkies; wireless headphones; **wireless loudspeakers; wireless audio and video receivers, wired and wireless remote controls for use with antennas, audio receivers, televisions, DVD players, audio and video cassette players and recorders, MP3 players, compact disc players, video games, radios, and stereos; wireless audio, video, radio frequency and infrared transmitters; electrical wires.**}

EXHIBIT "B"

RECOTON AUDIO CORPORATION
"ADVENT" TRADEMARKS WORLDWIDE

Country	Trademark	Status	Reg No
Argentina	ADVENT	Registered	1436486
Argentina	ADVENT (LOGO)	Registered	1502286
Australia	ADVENT	Registered	A273326
Austria	ADVENT	Registered	103006
Benelux	ADVENT	Registered	387200
Brazil	ADVENT	Registered	818.206.306
Canada	ADVENT	Registered	TMA210872
Canada	ADVENT	Registered	TMA211030
Chile	ADVENT	Registered	411324
China	ADVENT	Registered	204030
Colombia	ADVENT	Applied	
Costa Rica	ADVENT	Registered	12.345
Denmark	ADVENT	Registered	01761-1977
Dominican Republic	ADVENT	Registered	35212
Finland	ADVENT	Registered	90303
France	ADVENT	Registered	1246587
Germany	ADVENT	Registered	940455
Greece	ADVENT	Registered	73898
Guatemala	ADVENT	Registered	47004/279/10
Hong Kong	ADVENT	Registered	480/1979
India	ADVENT	Registered	400752
Indonesia	ADVENT	Registered	335499
Ireland	ADVENT	Registered	107229
Italy	ADVENT	Registered	454027
Jamaica	ADVENT	Registered	20940
Japan	ADVENT	Registered	2717828
Jordan	ADVENT	Registered	20689
Korea (South)	ADVENT	Registered	95417
Kuwait	ADVENT	Registered	30701
Lebanon	ADVENT	Registered	76445
Malaysia	ADVENT	Applied	
Mexico	ADVENT	Registered	579908
New Zealand	ADVENT	Registered	145504
Pakistan	ADVENT	Registered	78775
Panama	ADVENT	Registered	32512
Panama	ADVENT	Registered	32513
Paraguay	ADVENT	Registered	165744
Poland	ADVENT	Registered	R-59791
Sabah	ADVENT	Registered	S/31545

EXHIBIT "B"

RECOTON AUDIO CORPORATION
"ADVENT" TRADEMARKS WORLDWIDE

Country	Trademark	Status	Reg No
Sarawak	ADVENT	Registered	S/26681
Saudi Arabia	ADVENT	Registered	82/40
Singapore	ADVENT	Registered	S/619/83
South Africa	ADVENT	Applied	
Sweden	ADVENT	Registered	164658
Switzerland	ADVENT	Registered	323262
Taiwan	ADVENT	Registered	922504
Thailand	ADVENT	Registered	KOR2375
Turkey	ADVENT	Registered	76566
United Kingdom	ADVENT	Registered	1018490
Uruguay	ADVENT	Registered	268.312
USA	ADVENT	Registered	1008947
USA	ADVENT	Registered	2558737
Venezuela	ADVENT	Registered	78835-F